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THE SITUATION IN CENTRAL AMERICA:
PROCEDURES FOR THE ESTABLISHMENT
OF A FIRM AND LASTING PEACE AND
PROGRESS IN FASHIONING A REGION
OF PEACE, FREEDOM, DEMOCRACY
AND DEVELOPMENT

SECURITY COUNCIL
Fiftieth year

Letter dated 5 April 1995 from the Secretary-General to the President of the General Assembly and to the President of the Security Council

I have the honour to convey to you the text of the Agreement on Identity and Rights of Indigenous People between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG), which was signed at Mexico City on 31 March 1995. On the same day the parties initiated consideration of the next item on the negotiating agenda, namely "Socio-economic aspects and agrarian situation".

As mentioned in my letter dated 29 March 1995 (A/49/879-S/1995/241), the parties concurred that, while the Agreement as a whole will enter into force at the signing of a final peace agreement, those aspects which relate to human rights recognized in the Guatemalan legal order, including international treaties, conventions and other instruments to which Guatemala is a party, should be implemented immediately. The parties request that implementation of these aspects be verified by the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA).

I have asked the Director of MINUGUA to review the Agreement and assess whether additional resources will be required for verifying implementation of those commitments which relate to human rights and, therefore, fall within the mandate of MINUGUA. I shall convey my recommendations to the General Assembly shortly.

(Signed) Boutros BOUTROS-GHALI

ANNEX

[Original: Spanish]

Agreement on identity and rights of indigenous peoples

Considering

That the question of identity and rights of indigenous peoples is a vital issue of historic importance for the present and future of Guatemala;

That the indigenous peoples include the Maya people, the Garifuna people and the Xinca people, and that the Maya people consist of various socio-cultural groups having a common origin;

That, because of its history, conquest, colonization, movements and migrations, the Guatemalan nation is multi-ethnic, multicultural and multilingual in nature;

That the parties recognize and respect the identity and political, economic, social and cultural rights of the Maya, Garifuna and Xinca peoples, within the unity of the Guatemalan nation, and subject to the indivisibility of the territory of the Guatemalan State, as components of that unity;

That the indigenous peoples have been particularly subject to de facto levels of discrimination, exploitation and injustice, on account of their origin, culture and language and that, like many other sectors of the national community, they have to endure unequal and unjust treatment and conditions on account of their economic and social status;

That this historical reality has affected and continues to affect these peoples profoundly, denying them the full exercise of their rights and political participation, and hampering the configuration of a national unity which should adequately reflect the rich and diversified physionomy of Guatemala with its wealth of values;

That until this problem affecting Guatemalan society is resolved, its economic, political, social and cultural potential will never be able to develop fully and neither will it be able to take the place in the community of nations due to it by virtue of its ancient history and the spiritual grandeur of its peoples;

That it will be possible to eliminate oppression and discrimination in Guatemala only if due recognition is given to all aspects of the identity and rights of the peoples who have inhabited and continue to inhabit it, all of whom are components of its present reality and protagonists in its development, in all senses;

That all matters of direct interest to the indigenous peoples need to be dealt with by and with them and that the present agreement seeks to create, expand and strengthen the structures, conditions, opportunities and guarantees

regarding participation of the indigenous peoples, with full respect for their identity and the exercise of their rights;

That the international community, through the United Nations and the agencies and programmes of the United Nations system, the Organization of American States and other international agencies and instruments have recognized the aspirations of the indigenous peoples who wish to gain control over their own institutions and forms of life as peoples;

The Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (hereinafter referred to as "the parties") have agreed as followed:

I. IDENTITY OF INDIGENOUS PEOPLES

1. Recognition of the identity of the indigenous peoples is fundamental to the construction of a national unity based on respect for and the exercise of political, cultural, economic and spiritual rights of all Guatemalans.

2. The identity of the peoples is a set of elements which define them and, in turn, ensure their self-recognition. In the case of the Mayan identity, which has shown an age-old capacity for resistance to assimilation, those fundamental elements are as follows:

(a) Direct descent from the ancient Mayas;

(b) Languages deriving from a common Mayan root;

(c) A view of the world based on the harmonious relationship of all elements of the universe, in which the human being is only one additional element, in which the earth is the mother who gives life and maize is a sacred symbol around which Mayan culture revolves. This view of the world has been handed down from generation to generation through material and written artifacts and by an oral tradition in which women have played a determining role;

(d) A common culture based on the principles and structures of Mayan thought, a philosophy, a legacy of scientific and technical knowledge, artistic and aesthetic values of their own, a collective historical memory, a community organization based on solidarity and respect for one's peers, and a concept of authority based on ethical and moral values; and

(e) A sense of their own identity.

3. The multiplicity of socio-cultural groups of the Maya people, which include the Achi, Akateco, Awakateko, Chorti, Chuj, Itza, Ixil, Jakalteco, Kanjobal, Kaqchikel, Kiche, Mam, Mopan, Poqomam, Poqomchi, Q'eqchi, Sakapulteko, Sikapakense, Tectiteco, Tz'utujil and Uspanteco, has not affected the cohesion of their identity.

4. The identity of the Maya people, as well as the identities of the Garifuna and Xinca peoples is recognized within the unity of the Guatemalan nation and

the Government undertakes to promote, in the Guatemalan Congress, a reform of the Guatemalan Constitution to that effect.

II. STRUGGLE AGAINST DISCRIMINATION

A. Struggle against de jure and de facto discrimination

1. To overcome the age-old discrimination against indigenous peoples the assistance of all citizens will be needed in the effort to change thinking, attitudes and behaviour. This change must begin with a clear recognition by all Guatemalans of the reality of racial discrimination and of the compelling need to overcome it and achieve true peaceful coexistence.

2. For its part, with a view to eradicating discrimination against the indigenous peoples, the Government shall take the following measures:

(a) Promote in the Guatemalan Congress, the classification of ethnic discrimination as a criminal offence;

(b) Promote a review by the Guatemalan Congress of existing legislation with a view to abolishing any law or provision that could have discriminatory implications for the indigenous peoples;

(c) Widely disseminate information on the rights of the indigenous peoples through education, the communications media and through other channels; and

(d) Promote the effective protection of such rights. To that end, promote the creation of legal offices for the defence of indigenous rights and the installation of popular law offices to provide free legal assistance for persons of limited economic means in municipalities in which indigenous communities are prevalent. Furthermore, the Office of the Counsel for Human Rights and other organizations for the protection of human rights are urged to give special attention to the protection of the rights of the Maya, Garifuna and Xinca peoples.

B. Rights of indigenous women

1. It is recognized that indigenous women are particularly vulnerable and helpless, being confronted with twofold discrimination both as women and indigenous people, and also having to deal with a social situation characterized by intense poverty and exploitation. The Government undertakes to take the following measures:

(a) Promote legislation to classify sexual harassment as a criminal offence, considering as an aggravating factor in determining the penalty for sexual offences the fact that the offence was committed against an indigenous woman;

(b) Establish an Office for the Defence of Indigenous Women's Rights, with the participation of such women, including legal advice services and social services; and

(c) Promote the dissemination and faithful implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

2. The communications media and organizations concerned with the promotion of human rights are urged to cooperate in the attainment of the objectives listed in this section.

C. International instruments

International Convention on the Elimination of All Forms of Racial Discrimination

1. The Government undertakes to promote, in the Guatemalan Congress, a bill incorporating the provisions of the Convention in the Penal Code.

2. Since Guatemala is a party to the Convention it undertakes to use all available means aiming at recognition of the Committee on the Elimination of Racial Discrimination, as provided in article 14 of that Convention.

Indigenous and Tribal Peoples Convention, 1989 (ILO Convention No. 169)

3. The Government has transmitted to the Guatemalan Congress, for its approval, Convention No. 169 of the International Labour Organization and will accordingly promote approval of that Convention by the Congress. The parties urge the political parties to facilitate approval of the Convention.

Draft declaration on the rights of indigenous peoples

4. The Government shall promote approval of the draft declaration on the rights of indigenous peoples in the appropriate forums of the United Nations, in consultation with the indigenous peoples of Guatemala.

III. CULTURAL RIGHTS

1. Mayan culture is the original basis of Guatemalan culture and, in conjunction with the other indigenous cultures, is an active and dynamic factor in the development and progress of Guatemalan society.

2. The development of the national culture is therefore inconceivable without recognition and promotion of the culture of the indigenous peoples. Thus, in contrast with the past, educational and cultural policy must be oriented to focus on recognition, respect and encouragement of indigenous cultural values. With such recognition of cultural differences in mind, an effort must be made to promote contributions and exchanges that can help to enrich Guatemalan society.

3. The Maya, Garifuna and Xinca peoples are the authors of their cultural development. The role of the State is to support that development by eliminating obstacles to the exercise of this right, adopting the necessary legislative and administrative measures to strengthen indigenous cultural development in all fields covered by the State and ensuring the participation of indigenous persons in decisions on the planning and execution of cultural programmes and projects through their organizations and institutions.

A. Language

1. Language is one of the mainstays of culture since, in particular, it is the vehicle for learning and passing on the indigenous view of the world, and indigenous knowledge and cultural values. Thus, all the languages spoken in Guatemala deserve equal respect. In that context provision must be made to recover and protect indigenous languages and to promote the development and use of those languages.

2. To that end, the Government shall take the following measures:

(a) Promote a constitutional reform calling for the listing of all languages existing in Guatemala which the State is constitutionally required to recognize, respect and promote;

(b) Promote the use of all indigenous languages in the educational system, to enable children to read and write in their own tongue or in the language most commonly spoken in the community to which they belong and, in particular, protect bilingual and intercultural education and institutions such as the Mayan Schools and other indigenous educational projects;

(c) Promote the use of the languages of the indigenous people when providing State social services at the community level;

(d) Inform indigenous communities, in their own languages in keeping with the traditions of the indigenous peoples and by adequate means, of their rights, obligations and opportunities in various areas of national life. Recourse shall be had, if necessary, to written translations and the use of mass communications media in the languages of those peoples;

(e) Promote programmes for the training of bilingual judges and court interpreters from and into indigenous languages;

(f) Enhance the status of indigenous languages, opening up new opportunities for them in the mass communications and cultural transmission media, strengthening such organizations as the Academy of Mayan Languages and other similar institutions; and

(g) Promote the granting of official status to indigenous languages. To that end an officialization commission will be set up with the participation of representatives of the linguistic communities and the Academy of Mayan Languages of Guatemala, which shall study arrangements for granting official status, taking account of linguistic and territorial criteria. The Government shall

promote, in the Guatemalan Congress, a reform of article 143 of the Constitution to reflect the results of the officialization commission's work.

B. Names, surnames and place names

The Government reaffirms the full right to register indigenous names, surnames and place names. It also reaffirms the right of communities to change the names of places in which they reside, when a majority of members so decide. The Government shall take the measures provided for in part II, section A, of this agreement to combat any de facto discrimination in the exercise of this right.

C. Spirituality

1. Recognition is accorded to the importance and special nature of Mayan spirituality as an essential component in the Mayan vision of the world and in the transmittal of its values, as well as those of the other indigenous peoples.

2. The Government undertakes to secure respect for the exercise of this spirituality in all its manifestations, and particularly for the right to practice it, both in public and in private by means of education, worship and observance. Recognition is also given to the importance of the respect due to indigenous spiritual guides and to sacred ceremonies and holy places.

3. The Government shall promote, in the Guatemalan Congress, the reform of article 66 of the Constitution to stipulate that the State recognizes, respects and protects the various forms of spirituality practised by the Maya, Garifuna and Xinca peoples.

D. Temples, ceremonial centres and holy places

1. Recognition is accorded to the historical value and current importance of temples and ceremonial centres as part of the cultural, historical and spiritual heritage of the Maya and other indigenous peoples.

Temples and ceremonial centres situated in areas protected by the State as archaeological sites

2. According to the Guatemalan Constitution, temples and ceremonial centres of archaeological value constitute part of the national cultural heritage. As such, they are the property of the State and must be protected. In that context, measures must be taken to ensure that this principle is not violated in the case of temples and ceremonial centres of archaeological value situated or found on private property.

3. The right of the Maya, Garifuna and Xinca peoples to participate in the conservation and administration of such places is recognized. To guarantee this right the Government undertakes to promote, with the participation of indigenous

peoples, legal measures to ensure redefinition of State entities responsible for this function in order to make this right effective.

4. Changes shall be made in the regulations for the protection of ceremonial centres in archaeological areas to ensure that such regulations permit the practice of spirituality and cannot be made an impediment to the exercise of spiritual values. The Government shall promote, in cooperation with indigenous spiritual organizations, regulations governing access to ceremonial centres to guarantee the free practice of indigenous spirituality in conditions of respect laid down by spiritual guides.

Holy places

5. It is recognized that there are other holy places in which indigenous spirituality and, in particular, Mayan spirituality, is traditionally practised and which need to be preserved. A commission formed of representatives of the Government and indigenous organizations and of indigenous spiritual guides shall be set up to identify these places and establish rules for their preservation.

E. Use of indigenous dress

1. The constitutional right to wear indigenous dress must be respected and guaranteed in all areas of national life. The Government shall take the measures provided for in part II, section A, of this agreement to combat any de facto discrimination regarding the use of indigenous dress.

2. Furthermore, in a campaign to make the public more aware of the different manifestations of the Mayan, Garifuna and Xinca cultures, information shall be provided on the spiritual and cultural value of indigenous dress and the need to respect it.

F. Science and technology

1. The existence and value of the scientific and technological knowledge of the Maya and other indigenous peoples are recognized. This legacy must be retrieved, developed and disseminated.

2. The Government undertakes to promote the study and dissemination of this knowledge and to help put it to practical use. Universities, academic centres, the communications media, non-governmental organizations and international cooperation agencies are urged to validate and publicize the scientific and technical contributions of indigenous peoples.

3. Furthermore, the Government shall facilitate access by indigenous peoples to contemporary knowledge and shall promote scientific and technical exchanges.

G. Education reform

1. The educational system is one of the most important vehicles for the transmittal and development of cultural values and knowledge. It must be responsive to the cultural and linguistic diversity of Guatemala, recognizing and strengthening the cultural identity of indigenous peoples, the values and educational systems of the Maya and other indigenous peoples, and the need to afford access to formal and non-formal education and to include the educational concepts of indigenous peoples in national school curricula.

2. To this end, the Government undertakes to promote the following reforms in the educational system:

(a) Decentralize and regionalize the system in order to adapt it to linguistic and cultural needs and specific features;

(b) Give communities and families, which are a source of education, an active role in determining curricula and the school calendar and the authority to recommend the appointment or removal of teachers in order better to serve the educational and cultural interests of communities;

(c) Incorporate the educational concepts of the Maya and other indigenous peoples, particularly in the philosophical, scientific, artistic, pedagogical, historical, linguistic and socio-political areas, as part of the overall reform of the educational system;

(d) Expand and promote intercultural bilingual education and place emphasis on the study and knowledge of indigenous languages at all educational levels;

(e) Promote improvements in the socio-economic living conditions of communities by developing the values, content and methods of their culture, technological innovations and the ethical principle of protection of the environment;

(f) Include in educational syllabuses programmes that strengthen national unity through respect for cultural diversity;

(g) Recruit and train indigenous bilingual teachers and technical and administrative officials to develop education in their communities and to introduce mechanisms to permit consultation with and the participation of representatives of indigenous communities and organizations in the educational process;

(h) Pursue the effective realization of the constitutional right to education to which the entire population is entitled, especially in indigenous communities which exhibit the lowest levels of educational coverage, by expanding such coverage and taking steps to ensure the achievement of these objectives; and

(i) Increase the budget of the Ministry of Education, so that a substantial part of this increase can be allocated to the implementation of educational reform.

3. As part of the educational reform, full account shall be taken of the different Mayan educational experiences. The Mayan Schools shall continue to be encouraged and the National Programme of Intercultural Bilingual Education for indigenous peoples and the Mayan Culture and Language Component for the entire school population of Guatemala shall be consolidated. The establishment of a Mayan university or indigenous institutions of higher learning and the operation of the National Council of Mayan Education shall also be promoted.

4. In order to facilitate access by indigenous people to formal and non-formal education, the system of scholarships and student grants shall be strengthened. Teaching materials containing cultural and gender stereotypes shall also be revised.

5. A joint commission comprised of representatives of the Government and of indigenous organizations shall be established to design the above-mentioned reform.

H. Mass media

1. Like the educational system, the communications media play a paramount role in the defence, development and transmittal of cultural values and knowledge. It is the responsibility not only of the Government but also of all those working in and involved with the news media to promote respect for indigenous cultures, the dissemination of such cultures, and the elimination of all forms of discrimination, and to help all Guatemalans to take full possession of their multicultural heritage.

2. For its part, in order to promote the broadest possible access to the communications media by the Maya communities and institutions and those of the other indigenous peoples, the widest possible dissemination in indigenous languages of the indigenous, and especially Mayan, cultural heritage, as well as of the universal cultural heritage, the Government shall, in particular, take the following measures:

(a) Create opportunities in the official media for the dissemination of expressions of indigenous culture and promote a similar opening in the private media;

(b) Promote, in the Guatemalan Congress, the reforms of the existing Act on radio communications that are required in order to make frequencies available for indigenous projects and to ensure respect for the principle of non-discrimination in the use of the communications media. Furthermore, promote the abolition of any provision in the national legislation which is an obstacle to the right of indigenous peoples to have their own communications media for the development of their identity; and

(c) Regulate and support a system of informational, scientific, artistic and educational programmes on indigenous cultures in their languages, through the national radio, television and the written media.

IV. CIVIL, POLITICAL, SOCIAL AND ECONOMIC RIGHTS

A. Constitutional framework

The Government of Guatemala undertakes to promote a reform of the Constitution in order to define and characterize the Guatemalan nation as being of national unity, multi-ethnic, multicultural and multilingual.

B. Local indigenous communities and authorities

1. Recognition is accorded to the importance the Maya and other indigenous communities have had and continue to have in the political, economic, social, cultural and spiritual spheres. Their cohesion and dynamism have enabled the Maya, Garifuna and Xinca peoples to preserve and develop their culture and way of life, despite the discrimination to which they have been subjected.

2. Bearing in mind the constitutional commitment of the State to recognize, respect and promote these forms of organization which are peculiar to the indigenous communities, recognition is accorded to the role of the community authorities that were constituted in accordance with the customary norms of the communities, in the management of their affairs.

3. Recognizing the role of the communities, within the framework of municipal autonomy, in exercising the right of indigenous peoples to determine their own development priorities, particularly in the fields of education, health, culture and the infrastructure, the Government undertakes to strengthen the capacity of such communities in this area.

4. To this end, and in order to promote the participation of the indigenous communities in the decision-making process in all matters which affect them the Government shall promote a reform of the Municipal Code.

5. That reform shall be promoted in accordance with the conclusions adopted by the commission on reform and participation, established in section D, paragraph 4, of this part in the following areas, within the framework of municipal autonomy and the legal provisions granting indigenous communities the right to manage their internal affairs in accordance with their customary norms, as mentioned in section E, paragraph 3, of this part:

(a) Definition of the status and legal capacity of indigenous communities and their authorities constituted in accordance with traditional norms;

(b) Definition of the modalities concerning respect for customary law and all matters related to the habitat in the discharge of municipal functions, taking into consideration, where necessary, the situation of linguistic, ethnic and cultural diversity of the municipalities;

(c) Definition of the modalities for promoting the equitable distribution of government expenditure, including the percentage of the State's general budget of regular revenue which is transferred annually to the municipalities, among the communities, indigenous or non-indigenous, that make up the municipality, strengthening the capacity of those communities to manage resources and to be the instruments of their own development; and

(d) Definition of the modalities for communities to join together in the defence of their rights and interests and the conclusion of agreements for the design and implementation of communal and regional development projects.

C. Regionalization

Taking account of the advisability of having a regional administration based on far-reaching decentralization and deconcentration, the pattern of which reflects economic, social, cultural, linguistic and environmental criteria, the Government undertakes to regionalize the administration of the educational, health and cultural services of the indigenous peoples on the basis of linguistic criteria; in addition, it undertakes to facilitate the effective participation of community representatives in the management of education and culture at the local level in order to guarantee efficiency and relevance.

D. Participation at all levels

1. It is recognized that the indigenous peoples have been excluded from the decision-making process in the country's political life, so that it is extremely difficult, if not impossible, for them freely and fully to express their demands and defend their rights.

2. In this connection, it is reaffirmed that the Maya, Garifuna and Xinca peoples have the right to create and manage their own institutions, to control their development and to have a genuine opportunity freely to exercise their political rights. It is also recognized and reaffirmed that the free exercise of these rights gives validity to their institutions and strengthens the unity of the nation.

3. Consequently, it is necessary to institutionalize the representation of indigenous peoples at the local, regional and national levels and to ensure their free participation in the decision-making process in the various areas of national life.

4. The Government undertakes to promote legal and institutional reforms to facilitate, regulate and guarantee such participation. It also undertakes to plan such reforms with the participation of representatives of the indigenous organizations through the establishment of a joint commission on reform and participation, made up of representatives of the Government and of the indigenous organizations.

5. Without limiting its mandate, the commission may consider reforms or measures in the following areas:

(a) Mandatory mechanisms for consultation with the indigenous peoples whenever legislative and administrative measures likely to affect the Maya, Garifuna and Xinca peoples are being considered;

(b) Institutional forms of individual and collective participation in the decision-making process, such as advisory, consultative or other bodies that ensure a permanent dialogue between organs of the State and the indigenous peoples;

(c) Institutions representing the indigenous peoples which defend the interests of the indigenous peoples at the regional and/or national level and which have statutes that ensure their representativity and powers that guarantee the adequate defence and promotion of those interests, including the power to make proposals to the executive and legislative bodies; and

(d) Guarantee of free access by indigenous peoples to the various branches of public service, promoting their appointment to posts within the local, regional and national government administrations whose work most directly concerns their interests or whose activities are limited to predominantly indigenous areas.

E. Customary law

1. The traditional norms of indigenous peoples have been and continue to be an essential element for the social regulation of the life of the communities and, consequently, for the maintenance of their cohesion.

2. The Government recognizes that both the failure of national legislation to take account of the customary norms which govern life in the indigenous communities and the lack of access by indigenous peoples to the resources of the national judicial system have resulted in the denial of rights, in discrimination and in marginalization.

3. To strengthen the security before the law of the indigenous communities, the Government undertakes to promote, before the legislative organ and with the participation of indigenous organizations, the development of rules of law which would recognize the right of the indigenous communities to manage their own internal affairs in accordance with their customary norms, provided that the latter are not incompatible with the fundamental rights defined by the national legal system or with internationally recognized human rights.

4. In cases where the intervention of the courts is required, and in particular in criminal matters, the competent authorities should take fully into account the traditional norms governing the communities. To this end, the Government undertakes to take the following measures:

(a) Propose, with the participation of representatives of indigenous organizations, legal provisions calling for the inclusion of cultural expertise and the development of mechanisms which would permit the community authorities to indicate the customs which constitute their set of internal norms; and

(b) Promote, in coordination with Guatemalan universities, professional associations and indigenous organizations, a continuing programme for judges and officers of the court (Ministerio Público) on the culture and identifying features of the indigenous peoples and, in particular, an understanding of the norms and mechanisms which govern their community life.

5. To ensure the access of indigenous peoples to the resources of the national legal system, the Government undertakes to promote free legal advisory services for those with limited economic resources and reiterates its obligation to make court interpreters available to the indigenous communities, free of charge, thus ensuring the application of the principle that no one may be judged without having had the assistance of interpretation into his own language.

6. The Government, in cooperation with indigenous organizations, national universities and competent professional associations, shall promote the systematic and in-depth study of the values and procedures of the traditional system of norms.

F. Rights relating to land of the indigenous peoples

1. The rights relating to land of the indigenous peoples include both the communal or collective and the individual tenure of land, rights of ownership and possession and other real rights, and the use of natural resources for the benefit of the communities without detriment to their habitat. Legislative and administrative measures must be developed to ensure recognition, the awarding of title, protection, recovery, restitution and compensation for those rights.

2. The lack of protection of the rights relating to land and natural resources of the indigenous peoples is part of a very wide-ranging set of problems resulting, inter alia, from the fact that both the indigenous and the non-indigenous peasants have had difficulty in having their rights legalized through the acquisition of title and land registration. When, in exceptional cases, they have been able to have their rights legalized, they have not had access to legal mechanisms to defend them. Since this problem is not exclusive to the indigenous population - although the latter has been particularly affected - it should be dealt with in the context of "Social and economic issues and the agrarian question", as one of the considerations to be taken into account in connection with the reform of the land tenure structure.

3. However, the situation with regard to the particular lack of protection and plundering of indigenous communal or collectively held lands merits special attention within the framework of this agreement. The Guatemalan Constitution establishes the obligation of the State to give special protection to cooperative, communal or collectively-held lands; recognizes the right of indigenous and other communities to maintain the system of administration of the lands which they hold and which historically belong to them; and lays down the obligation of the State to provide State lands for the indigenous communities which need them for their development.

4. Recognizing the special importance which their relationship to the land has for the indigenous communities, and in order to strengthen the exercise of their

collective rights to the land and its natural resources, the Government undertakes to adopt directly, when that is within its competence, and to promote, when that is within the competence of the legislative organ or the municipal authorities, the following measures, inter alia, which shall be implemented in consultation and coordination with the indigenous communities concerned.

Regularization of the land tenure of indigenous communities

5. The Government shall adopt or promote measures to regularize the legal situation with regard to the communal possession of lands by communities which do not have the title deeds to those lands, including measures to award title to municipal or national lands with a clear communal tradition. To that end, an inventory of the land tenure situation shall be drawn up in each municipality.

Land tenure and use and administration of natural resources

6. The Government shall adopt or promote the following measures:

(a) Recognize and guarantee the right of access to lands and resources which are not occupied exclusively by communities but to which the latter have historically had access for their traditional activities and their subsistence (rights of way, such as passage, wood-cutting, access to springs, etc., and use of natural resources) and for their spiritual activities;

(b) Recognize and guarantee the right of communities to participate in the use, administration and conservation of the natural resources existing in their lands;

(c) Secure the approval of the indigenous communities prior to the implementation of any project for the exploitation of natural resources which might affect the subsistence and way of life of the communities. The communities affected shall receive fair compensation for any loss which they may suffer as a result of these activities; and

(d) Adopt, in cooperation with the communities, the measures necessary for the protection and preservation of the environment.

Restitution of communal lands and compensation for rights

7. Recognizing the particularly vulnerable situation of the indigenous communities, which have historically been the victims of land plundering, the Government undertakes to institute proceedings to settle the claims to communal lands formulated by the communities and to restore or pay compensation for those lands. In particular, the Government shall adopt or promote the following measures:

(a) Suspend the awarding of supplementary titles in respect of property to which the indigenous communities have claimed a right;

(b) Suspend the statute of limitations in respect of any action involving the plundering of the indigenous communities; and

(c) When the statute of limitations has already expired, however, establish procedures to compensate the communities which have been plundered with lands acquired for that purpose.

Acquisition of land for the development of indigenous communities

8. The Government shall take the necessary measures, without detriment to peasant smallholdings, to discharge its constitutional mandate to provide State lands for the indigenous communities which need them for their development.

Legal protection of the rights of indigenous communities

9. In order to facilitate the defence of the aforementioned rights and to protect the communities effectively, the Government undertakes to adopt or promote the following measures:

(a) Develop legal rules recognizing the right of indigenous communities to administer their lands in accordance with their customary norms;

(b) Promote an increase in the number of courts dealing with land cases and expedite procedures for the settlement of those cases;

(c) Urge faculties of law and the social sciences to strengthen the agrarian law component of the curriculum and include a knowledge of the relevant customary norms;

(d) Establish competent legal advisory services to advise on land claims;

(e) Provide the indigenous communities with the services of interpreters, free of charge, in respect of legal matters;

(f) Promote the widest dissemination, within indigenous communities, of information about land rights and the legal recourses available; and

(g) Eliminate any form of discrimination against women, in fact or in law, with regard to facilitating access to land, housing, loans and participation in development projects.

10. The Government undertakes to give the fulfilment of the undertakings set out in this section F the priority which the situation of insecurity and urgency that characterize the land problems of the indigenous communities deserves. To that end, the Government shall, in consultation with the indigenous peoples, establish a joint commission on the rights relating to land of the indigenous peoples to study, devise and propose more appropriate institutional arrangements and procedures. The commission shall be composed of representatives of the Government and of indigenous organizations.

V. JOINT COMMISSIONS

With regard to the composition and functioning of the commission on education reform referred to in part III, section G, paragraph 5, the commission on reform and participation referred to in part IV, section D, paragraph 4, and the commission on rights relating to land of the indigenous peoples referred to in part IV, section F, paragraph 10, the parties agree as follows:

(a) The commissions shall be composed of an equal number of representatives of the Government and representatives of indigenous organizations;

(b) The number of members of the commissions shall be established in consultations between the Government and the Maya sectors of the Assembly of Civil Society;

(c) The Maya sectors of the Assembly of Civil Society shall convene the Maya, Garifuna and Xinca organizations interested in participating in the said commissions for them to designate indigenous representatives to them;

(d) The commissions shall adopt their conclusions by consensus;

(e) The commissions shall base their operation on the mandates set out in this agreement; and

(f) The commissions may request the advice and cooperation of national and international organs relevant to the discharge of their mandates.

VI. RESOURCES

In view of the importance of the measures set out in this agreement, the Government undertakes to make every effort to mobilize the resources which are essential for the fulfilment of the undertakings it has given in this agreement. In addition to the Government, broad sectors of the national community may play an active role in promoting respect for the identity of the indigenous peoples and the full exercise of their rights. Those sectors are urged to contribute to the implementation of this agreement in the areas within their competence with the resources available to them. International cooperation is essential to supplement national efforts with technical and financial resources, particularly in the context of the International Decade of the World's Indigenous People (1994-2004).

VII. FINAL PROVISIONS

1. In accordance with the Framework Agreement, the Secretary-General of the United Nations is requested to undertake the verification of the implementation of this agreement, and it is suggested that, in planning the verification mechanism, he should take into account the views of indigenous organizations.

2. The aspects of this agreement which relate to the human rights recognized in the legislation of Guatemala and in the treaties, conventions and other international instruments in that area to which Guatemala is a party, shall have immediate force and application. It is requested that the verification should be carried out by the United Nations Mission for the Verification of Human Rights and of Compliance with the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA).

3. This agreement shall form part of the firm and lasting peace agreement and, except as otherwise provided in the previous paragraph, shall enter into force at the time of the signing of the latter agreement.

4. This agreement shall be disseminated as widely as possible both in Spanish and in the principal indigenous languages. To this end, international financial cooperation is requested.

Note. The statements contained in the consensus document of the Assembly of Civil Society on this subject which relate more directly to outstanding items in the negotiating agenda will be discussed in due course.

Mexico City, 31 March 1995.

For the Government of the Republic of Guatemala:

[Signed] Héctor ROSADA GRANADOS

[Signed] Antonio ARENALES FORNO

[Signed] Mario PERMUTH

[Signed] Rubén Amilcar BURGOS SOLIS

[Signed] Brigadier General Carlos Enrique PINEDA CARRANZA

[Signed] Brigadier General Julio Arnoldo BALCONI TURCIOS

[Signed] Brigadier General José Horacio SOTO SALAN

[Signed] Manuel SALAZAR TETZAGUIC

For the Unidad Revolucionaria Nacional Guatemalteca:

General Command

[Signed] Commander Gaspar ILOM

[Signed] Commander Pablo MONSANTO

[Signed] Commander Rolando MORAN

[Signed] Carlos GONZALES

Political and Diplomatic Commission

[Signed] Luis Felipe BECKER GUZMAN

[Signed] Francisco VILLAGRAN MUÑOZ

[Signed] Miguel Angel SANDOVAL

[Signed] Luz MENDEZ GUTIERREZ

Advisers

[Signed] Mario Vinicio CASTAÑEDA [Signed] Miguel Angel REYES

For the United Nations:

[Signed] Gilberto Bueno SCHLITTLER-SILVA
Director, Guatemala Unit

[Signed] Jean ARNAULT
Moderator